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INFORMATION SECURITY OVERSIGHT OFFICE

COMPARISON OF MAJOR FEATURES OF
EXECUTIVE ORDERS GOVERNING THE
INFORMATION SECURITY PROGRAM

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I. CLASSIFICATION LEVELS

E.O. 10501, AS AMENDED	E. O. 11652	E. O. 12065	CURRENT DRAFT
<p>THREE LEVELS:</p> <p>TOP SECRET(TS)-EXCEPTIONALLY GRAVE DAMAGE</p> <p>SECRET(S)-SERIOUS DAMAGE</p> <p>CONFIDENTIAL(C)-PREJUDICIAL TO DEFENSE</p>	<p>THREE LEVELS:</p> <p>TS-EXCEPTIONALLY GRAVE DAMAGE</p> <p>S-SERIOUS DAMAGE</p> <p>C-DAMAGE</p>	<p>THREE LEVELS:</p> <p>TS-EXCEPTIONALLY GRAVE DAMAGE</p> <p>S-SERIOUS DAMAGE</p> <p>C-IDENTIFIABLE DAMAGE</p>	<p>THREE LEVELS:</p> <p>TS-EXCEPTIONALLY GRAVE DAMAGE</p> <p>S-SERIOUS DAMAGE</p> <p>C-DAMAGE</p>

COMMENT: THE TERM "IDENTIFIABLE" HAS BEEN OMITTED IN THE DRAFT ORDER TO OVERCOME LITIGATION PROBLEMS CONCERNING THE INTENT OF THE LANGUAGE OF E.O. 12065. IT IS NOT INTENDED NOR DOES EXPERIENCE INDICATE THAT ITS OMISSION WILL RESULT IN INFORMATION BEING CLASSIFIED UNDER THE DRAFT ORDER WHICH WOULD NOT BE CLASSIFIABLE UNDER E.O. 12065.

E.O. 10501, AS AMENDED	E.O. 11652	E.O. 12065	CURRENT DRAFT
<p>TOP SECRET: 48 AGENCIES -7,136 PERSONS SECRET: 48 AGENCIES -23,236 PERSONS CONFIDENTIAL: 48 AGENCIES -28,944 PERSONS</p> <p>TOTAL ORIGINAL CLASSIFIERS: 59,316</p> <p>NOTE: AGENCY AUTHORITY CITED ON THIS PAGE IS CUMULATIVE: I.E., AGENCIES WITH SECRET AUTHORITY INCLUDE THOSE WITH TOP SECRET. THE SAME APPLIES FOR CONFIDENTIAL.</p>	<p>TOP SECRET: 17 AGENCIES -1597 PERSONS SECRET: 30 AGENCIES -9986 PERSONS CONFIDENTIAL: 30 AGENCIES -6043 PERSONS</p> <p>TOTAL ORIGINAL CLASSIFIERS: 17,626</p>	<p>TOP SECRET: 13 AGENCIES -1496 PERSONS SECRET: 17 AGENCIES -4195 PERSONS CONFIDENTIAL: 19 AGENCIES -1538 PERSONS</p> <p>TOTAL ORIGINAL CLASSIFIERS: 7229</p>	<p>THE CURRENT DRAFT DOES NOT LIST THE AGENCIES WITH CLASSIFICATION AUTHORITY. THIS WILL BE ACCOMPLISHED BY AN ACCOMPANYING PRESIDENTIAL ORDER. PRESENT PLANS ANTICIPATE NUMBERS COMPARABLE TO E.O. 12065 IN BOTH NUMBERS OF AGENCIES AND PERSONNEL.</p>

COMMENT: THE CURRENT DRAFT REFLECTS COMMITMENT TO KEEP THE NUMBER OF CLASSIFIERS TO A NECESSARY MINIMUM, WHILE PROVIDING AN ADMINISTRATIVE REMEDY TO AVOID THE UNNECESSARY INVOLVEMENT OF THE HEAD OF THE AGENCY IN THE DELEGATION PROCESS.

E.O. 10501, AS AMENDED	E.O. 11652	E.O. 12065	CURRENT DRAFT
NO SPECIFIC CATEGORIES ARE GIVEN WHICH LIMIT SUBJECT MATTERS THAT MAY BE CLASSIFIED	NO SPECIFIC CATEGORIES ARE GIVEN WHICH LIMIT SUBJECT MATTERS THAT MAY BE CLASSIFIED	SEVEN CATEGORIES: 1. MILITARY PLANS, WEAPONS, OR OPERATIONS; 2. FOREIGN GOVERNMENT INFORMATION; 3. INTELLIGENCE ACTIVITIES, SOURCES OR METHODS; 4. FOREIGN RELATIONS OR FOREIGN ACTIVITIES OF THE UNITED STATES; 5. SCIENTIFIC, TECHNOLOGICAL, OR ECONOMIC MATTERS RELATING TO THE NATIONAL SECURITY; 6. UNITED STATES GOVERNMENT PROGRAMS FOR SAFEGUARDING NUCLEAR MATERIALS OR FACILITIES; OR 7. OTHER CATEGORIES OF INFORMATION WHICH ARE RELATED TO NATIONAL SECURITY AND WHICH REQUIRE PROTECTION AGAINST UNAUTHORIZED DISCLOSURE AS DETERMINED BY THE PRESIDENT, BY A PERSON DESIGNATED BY THE PRESIDENT PURSUANT TO SEC. 1-201, OR BY AN AGENCY HEAD.	TEN CATEGORIES: 1. MILITARY PLANS, WEAPONS, OR OPERATIONS; 2. THE VULNERABILITIES OR CAPABILITIES OF SYSTEMS, INSTALLATIONS, PROJECTS, OR PLANS VITAL TO THE NATIONAL SECURITY; 3. FOREIGN GOVERNMENT INFORMATION; 4. INTELLIGENCE ACTIVITIES (INCLUDING SPECIAL ACTIVITIES), OR INTELLIGENCE SOURCES OR METHODS; 5. FOREIGN RELATIONS OR FOREIGN ACTIVITIES OF THE UNITED STATES; 6. SCIENTIFIC, TECHNOLOGICAL, OR ECONOMIC MATTERS RELATING TO THE NATIONAL SECURITY; 7. UNITED STATES GOVERNMENT PROGRAMS FOR SAFEGUARDING NUCLEAR MATERIALS OR FACILITIES; 8. CRYPTOLOGY; 9. A CONFIDENTIAL SOURCE; OR 10. OTHER CATEGORIES OF INFORMATION WHICH ARE RELATED TO THE NATIONAL SECURITY AND WHICH REQUIRE PROTECTION AGAINST UNAUTHORIZED DISCLOSURE AS DETERMINED BY THE PRESIDENT OR BY AGENCY HEADS WHO HAVE ORIGINAL CLASSIFICATION AUTHORITY. ANY DETERMINATION MADE UNDER THIS SUBSECTION SHALL BE REPORTED PROMPTLY TO THE DIRECTOR OF THE INFORMATION SECURITY OVERSIGHT OFFICE.

COMMENT: THE THREE ADDITIONAL CATEGORIES ADDED TO THE CURRENT DRAFT REFLECT EXPERIENCE OF 3 YEARS UNDER E.O. 12065 WHICH INDICATED THAT THE ELEMENTS ADDED WERE JEOPARDIZED IN THE CONTEXT OF LITIGATION. IT IS NOT INTENDED THAT ADDITIONAL MATERIAL WILL BE CLASSIFIED UNDER THESE CATEGORIES BEYOND THAT WHICH WAS SUBJECT TO CLASSIFICATION UNDER E.O. 12065.

IV. DURATION OF CLASSIFICATION

E.O. 10501, AS AMENDED	E.O. 11652	E.O. 12065	CURRENT DRAFT
<p>FOUR GROUPS:</p> <p>GROUP 1-NO LIMITATIONS ON DURATION</p> <p>GROUP 2-NO LIMITATIONS ON DURATION</p> <p>GROUP 3-NO LIMITATIONS ON DURATION</p> <p>GROUP 4-12 YEARS</p>	<p>THREE GROUPS:</p> <p>1. ADVANCED DECLASSIFICATION SCHEDULE- (ADS):</p> <p>TS-SOONER THAN 10 YEARS</p> <p>S-SOONER THAN 8 YEARS</p> <p>C-SOONER THAN 6 YEARS</p> <p>2. GENERAL DECLASSIFICATION SCHEDULE (GDS):</p> <p>TS-10 YEARS</p> <p>S-8 YEARS</p> <p>C-6 YEARS</p> <p>3. EXTENDED DECLASSIFICATION SCHEDULE: (XDS):</p> <p>TS-30 YEARS UNLESS EXTENDED</p> <p>S-30 YEARS UNLESS EXTENDED</p> <p>C-30 YEARS UNLESS EXTENDED</p>	<p>SIX YEARS UNLESS EXTENDED BY HEAD OF AGENCY OR TOP SECRET AUTHORITY FOR PERIODS UP TO 20 YEARS. FOLLOWING REVIEW, HEAD OF AGENCY MAY EXTEND BEYOND 20 YEARS.</p> <p>EXPERIENCE HAS SHOWN THAT THE OVERWHELMING MAJORITY (IN EXCESS OF 90%) NOT MARKED FOR AUTOMATIC DECLASSIFICATION IN SIX YEARS.</p>	<p>IF APPROPRIATE, A LIMIT SHALL BE ESTABLISHED AT TIME OF ORIGINAL CLASSIFICATION. CLASSIFICATION SHALL CONTINUE AS LONG AS REQUIRED BY NATIONAL SECURITY INTEREST.</p>

COMMENT: THE DRAFT ORDER RECOGNIZES THAT AUTOMATIC DECLASSIFICATION DATES WHICH DO NOT RELATE TO A SPECIFIC OCCURRENCE ARE ARTIFICIAL DETERMINATIONS WHICH POSE A THREAT TO SECURITY OF THE INFORMATION. EXPERIENCE INDICATES THAT AGENCIES AVOID AFFIXING AUTOMATIC DECLASSIFICATION DATES WHENEVER POSSIBLE.

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V. LIMITATIONS ON CLASSIFICATION

E. O. 10501, as amended	E. O. 11652	E. O. 12065	Current draft
<p>NO SPECIFIC GROUP OF LIMITATIONS. SOME REFERENCES TO AVOIDING UNNECESSARY OR INAPPROPRIATE CLASSIFICATION.</p>	<p>CLASSIFICATION SOLELY ON BASIS OF NATIONAL SECURITY CONSIDERATIONS. NOT TO CONCEAL INEFFICIENCY OR ERROR, TO PREVENT EMBARRASSMENT, TO RESTRAIN COMPETITION OR TO PREVENT THE RELEASE OF MATERIAL NOT REQUIRING NATIONAL SECURITY PROTECTION.</p>	<p>CLASSIFICATION IMPROPER WHEN USED TO CONCEAL VIOLATIONS OF LAW, INEFFICIENCY OR ERROR, PREVENT EMBARRASSMENT, OR RESTRAIN COMPETITION, OR LIMIT DISSEMINATION OF INFORMATION.</p> <p>BASIC SCIENTIFIC RESEARCH NOT CLEARLY RELATED TO NATIONAL SECURITY MAY NOT BE CLASSIFIED. CLASSIFICATION MAY NOT BE RESTORED TO DOCUMENTS DECLASSIFIED AND RELEASED TO THE PUBLIC, UNDER VERY LIMITED CIRCUMSTANCES DOCUMENTS CAN BE CLASSIFIED AFTER RECEIPT OF FOIA OR MANDATORY REVIEW REQUEST.</p>	<p>CLASSIFICATION SOLELY ON BASIS OF NATIONAL SECURITY CONSIDERATIONS. NOT TO CONCEAL VIOLATIONS OF LAW, INEFFICIENCY OR ERROR, PREVENT EMBARRASSMENT, RESTRAIN COMPETITION, OR DELAY RELEASE OF INFORMATION. UNDER VERY LIMITED CIRCUMSTANCES, DECLASSIFIED INFORMATION WHICH REQUIRES PROTECTION MAY BE RECLASSIFIED. UNDER LIMITED CIRCUMSTANCES, DOCUMENTS CAN BE CLASSIFIED AFTER RECEIPT OF FOIA OR MANDATORY REVIEW REQUEST.</p>

COMMENTS: THE CURRENT DRAFT RETAINS THE CRITICAL LIMITATIONS OF THE EXISTING ORDER, IN ALLOWING THE VERY LIMITED RECLASSIFICATION OF MATERIAL PREVIOUSLY RELEASED, THE DRAFT RECOGNIZES INSTANCES IN WHICH THIS ACTION IS BOTH NECESSARY AND EFFECTIVE,

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VI. RECOGNITION OF DERIVATIVE CLASSIFICATION

E. O. 10501, as amended	E. O. 11652	E. O. 12065	Current draft
NO RECOGNITION OF DISTINCTION BETWEEN ORIGINAL AND DERIVATIVE CLASSIFICATION.	NO SPECIFIC RECOGNITION OF DISTINCTION BETWEEN ORIGINAL AND DERIVATIVE CLASSIFICATION. HOLDERS OF CLASSIFIED INFORMATION ARE REQUIRED "TO OBSERVE AND RESPECT" THE CLASSIFICATION ASSIGNED BY THE ORIGINATOR.	RECOGNIZES DERIVATIVE CLASSIFICATION AS A COMPLETELY DISTINCT PROCESS FROM ORIGINAL CLASSIFICATION, BUT DOES NOT DEFINE DERIVATIVE CLASSIFICATION. ANY AUTHORIZED HOLDER OF CLASSIFIED INFORMATION MAY DERIVATIVELY CLASSIFY, EVEN PERSONS WITHOUT ORIGINAL CLASSIFICATION AUTHORITY. MANDATES CREATION OF CLASSIFICATION GUIDES TO BE USED BY DERIVATIVE CLASSIFIERS.	RECOGNIZES DERIVATIVE CLASSIFICATION AS A COMPLETELY DISTINCT PROCESS FROM ORIGINAL CLASSIFICATION, AND DEFINES THE TERM. ANY AUTHORIZED HOLDER OF CLASSIFIED INFORMATION MAY DERIVATIVELY CLASSIFY, EVEN PERSONS WITHOUT ORIGINAL CLASSIFICATION AUTHORITY. MANDATES CREATION OF CLASSIFICATION GUIDES, BUT AGENCY HEAD MAY WAIVE REQUIREMENT FOR SPECIFIC CLASSES OF INFORMATION AND REPORT WAIVER TO ISOO.

COMMENTS: ISOO EXPERIENCE IN MONITORING THE PROGRAM SHOWS THAT APPROXIMATELY 95% OF ALL CLASSIFICATION ACTIONS ARE DERIVATIVE IN NATURE, APPROPRIATE APPLICATION OF DERIVATIVE CLASSIFICATION PROMOTES UNIFORM CLASSIFICATION OF LIKE INFORMATION AND FACILITATES ITS SAFEGUARDING AND ULTIMATE DECLASSIFICATION. THE DRAFT ORDER REFLECTS ISOO EXPERIENCE THAT THERE ARE CERTAIN CLASSES OF INFORMATION FOR WHICH CLASSIFICATION GUIDES ARE INEFFECTUAL.

E.O. 10501, AS AMENDED	E.O. 11652	E.O. 12065	CURRENT DRAFT
<p>HEAD OF AGENCY AND DESIGNEES MAY DECLASSIFY OR DOWNGRADE INFORMATION ORIGINATED WITHIN THAT AGENCY. HEAD OF AGENCY AND DESIGNEES MAY DECLASSIFY OR DOWNGRADE INFORMATION ORIGINATING IN ANOTHER AGENCY BUT IN THEIR POSSESSION BASED ON REGULATIONS ISSUED BY ORIGINATING AGENCY.</p>	<p>AUTHORITY TO DECLASSIFY OR DOWNGRADE RESTS WITH THE ORIGINATING OFFICIAL; A SUCCESSOR IN FUNCTION; A SUPERVISORY OFFICIAL OF EITHER; AND ANY OTHER OFFICIAL WITH TOP SECRET OR SECRET CLASSIFICATION AUTHORITY WHO HAS BEEN DESIGNATED BY ONE OF THE PRIOR LISTED OFFICIALS.</p>	<p>AUTHORITY TO DECLASSIFY OR DOWNGRADE RESTS WITH THE ORIGINATING OFFICIAL; A SUCCESSOR IN FUNCTION; A SUPERVISORY OFFICIAL OF EITHER; OR OTHER OFFICIALS DESIGNATED BY THE AGENCY HEAD. THE DIRECTOR OF ISOO MAY ORDER AN AGENCY HEAD TO DECLASSIFY INFORMATION DETERMINED TO BE CLASSIFIED IN VIOLATION OF THE ORDER. SUCH AN ORDER MAY BE APPEALED BY AGENCY HEAD TO NATIONAL SECURITY COUNCIL.</p>	<p>AUTHORITY TO DECLASSIFY OR DOWNGRADE RESTS WITH THE ORIGINATING OFFICIAL; A SUCCESSOR IN FUNCTION; A SUPERVISORY OFFICIAL OF EITHER; OR OTHER OFFICIALS DESIGNATED BY THE AGENCY HEAD OR THE SENIOR INFORMATION SECURITY PROGRAM OFFICIAL.</p>

COMMENT: THE DRAFT ORDER RETAINS THE DECLASSIFICATION PROCEDURES OF E.O. 12065 AS THEY PERTAIN TO AUTHORITY AND FACILITATES THE DECLASSIFICATION PROCESS BY ALLOWING THE AGENCY SENIOR OFFICIAL TO DESIGNATE DECLASSIFICATION AUTHORITIES.

E. O. 10501, as amended	E. O. 11652	E. O. 12065	Current draft
NO PROVISIONS FOR SYSTEMATIC REVIEW.	ALL INFORMATION CLASSIFIED UNDER PRIOR ORDERS TO BE REVIEWED FOR DECLASSIFICATION BY THE ARCHIVIST OF THE UNITED STATES 30 YEARS FROM DATE OF ORIGIN. AGENCIES TO PROVIDE THE ARCHIVIST WITH GUIDELINES AND SUPPORT AS NEEDED. CLASSIFICATION OF SPECIFIC CATEGORIES OF INFORMATION MAY BE EXTENDED BEYOND 30 YEARS BY THE HEAD OF THE ORIGINATING AGENCY.	PERMANENTLY VALUABLE CLASSIFIED RECORDS SHALL BE SYSTEMATICALLY REVIEWED FOR DECLASSIFICATION TWENTY YEARS FROM DATE OF ORIGIN. AGENCY HEAD MAY EXTEND DECLASSIFICATION IN TEN YEAR INCREMENTS FOLLOWING REVIEW. FOREIGN GOVERNMENT INFORMATION TO BE REVIEWED 30 YEARS FROM DATE OF ORIGIN. ALL AGENCIES SHALL DEVELOP GUIDELINES FOR USE IN THIS PROGRAM.	SYSTEMATIC REVIEW TO BE CARRIED OUT BY THE ARCHIVIST, CONSISTENT WITH PROCEDURES PRESCRIBED BY ISOO AND AGENCY GUIDELINES, ON ALL MATERIAL ACCESSIONED INTO THE NATIONAL ARCHIVES AND CLASSIFIED PRESIDENTIAL PAPERS IN THE ARCHIVIST'S CONTROL. TIME-FRAMES TO BE ESTABLISHED IN ACCORDANCE WITH ISOO DIRECTIVES AND AGENCY GUIDELINES. AGENCY HEADS MAY CONDUCT SYSTEMATIC REVIEW PROGRAM ON PERMANENTLY VALUABLE RECORDS ORIGINATING IN THOSE AGENCIES.

COMMENTS: THE CURRENT DRAFT REPRESENTS A COMPROMISE POSITION BETWEEN THE RECOMMENDATION OF THE GENERAL ACCOUNTING OFFICE THAT SYSTEMATIC REVIEW BE ABOLISHED ENTIRELY AND THE CURRENT SYSTEM WHICH IS BOTH COSTLY AND UNSUCCESSFUL IN MEETING THE REQUIREMENTS OF THE ORDER. THE MORE REALISTIC PROGRAM ENVISIONED UNDER THE DRAFT ORDER WILL BETTER BALANCE THE NEEDS OF RESEARCHERS WITH AVAILABLE RESOURCES.

E.O. 10501, AS AMENDED	E.O. 11652	E.O. 12065	CURRENT DRAFT
NO PROVISION REGARDING MANDATORY REVIEW.	ORIGINATOR SHALL REVIEW INFORMATION FOR POSSIBLE DECLASSIFICATION UPON A REQUEST BY AN AGENCY OR MEMBER OF THE GENERAL PUBLIC IF THE INFORMATION IS AT LEAST TEN YEARS OLD.	<p>A MEMBER OF THE PUBLIC OR GOVERNMENT AGENCY MAY, AT ANY TIME, REQUEST THAT CLASSIFIED INFORMATION BE REVIEWED FOR DECLASSIFICATION AND RELEASE. PRESIDENTIAL MATERIALS LESS THAN TEN YEARS OLD ARE EXEMPT FROM THIS REQUIREMENT. AGENCIES CANNOT REFUSE TO CONFIRM OR DENY THE EXISTENCE OF A DOCUMENT UNLESS THAT FACT IS CLASSIFIABLE UNDER THIS ORDER.</p> <p>IN MAKING DECLASSIFICATION DECISIONS THE ORIGINATOR SHOULD BALANCE THE BENEFITS TO THE PUBLIC FROM RELEASE OF INFORMATION AGAINST NATIONAL SECURITY CONSIDERATIONS.</p>	ALL INFORMATION SUBJECT TO MANDATORY REVIEW AT ANY TIME UPON REQUEST BY US CITIZEN, RESIDENT ALIEN, OR STATE OR LOCAL GOVERNMENT. REQUEST MUST BE SPECIFIC ENOUGH THAT AGENCIES CAN LOCATE THE INFORMATION WITH REASONABLE EFFORT. PRESIDENTIAL MATERIALS ARE SUBJECT TO MANDATORY REVIEW 12 YEARS AFTER CREATION. AGENCIES SHALL DEVELOP PROCEDURES FOR MANDATORY REVIEW, TO INCLUDE A METHOD OF APPEAL. INFORMATION SHALL BE REVIEWED BY THE ORIGINATOR IF IN THE CUSTODY OF ANOTHER AGENCY.

COMMENT: OMISSION OF THE "BALANCING TEST" IS DESIGNED TO PREVENT THE UNINTENDED JUDICIAL REVIEW OF EXECUTIVE BRANCH DISCRETION. BALANCING IS INHERENTLY A PART OF THE DECISION TO CLASSIFY AND DECLASSIFY INFORMATION. THE DELAY TO 12 YEARS FOR REVIEW OF PRESIDENTIAL RECORDS IS DESIGNED TO BE CONSISTENT WITH THE PRESIDENTIAL RECORDS ACT OF 1978.

X. SAFEGUARDING

E. O. 10501, as amended	E. O. 11652	E. O. 12065	Current draft
<p>SETS FORTH BASIC POLICIES CONCERNING ACCESS, STORAGE, LOCKS AND SECURITY CONTAINERS, DISSEMINATION, LOSS, COMPROMISE, ACCOUNTABILITY, TRANSMISSION, DESTRUCTION, ETC.</p>	<p>PROVIDED ESSENTIALLY THE SAME BASIC POLICIES FOR THE PROTECTION OF NATIONAL SECURITY INFORMATION. IN ADDITION, REQUIRED THE NATIONAL SECURITY COUNCIL TO ISSUE DIRECTIVES CONCERNING PROTECTION BASED ON THESE POLICIES.</p>	<p>IN ADDITION TO THE BASIC POLICIES SET FORTH IN PREDECESSOR ORDERS, INCLUDED DIRECTION FOR REPRODUCTION CONTROLS AND FOR MONITORSHIP OF SPECIAL ACCESS PROGRAMS BY THE DIRECTOR OF THE INFORMATION SECURITY OVERSIGHT OFFICE (ISOO). PROVIDES THAT THE ISOO PROMULGATE IMPLEMENTING SAFEGUARDING DIRECTIVES,</p>	<p>RETAINS THE SAFEGUARDING POLICIES OF E. O. 12065 WITH THE EXCEPTION OF THOSE PORTIONS DEALING WITH REPRODUCTION CONTROLS. ADDS PROVISIONS PROHIBITING DISTRIBUTION OR DISSEMINATION OF INFORMATION TO A THIRD AGENCY WITHOUT THE AGREEMENT OF THE ORIGINATING AGENCY,</p>

COMMENTS: THE THIRD-AGENCY RULE CURRENTLY CONTAINED IN THE ISOO DIRECTIVE HAS BEEN PLACED IN THE DRAFT ORDER. THE IMPLEMENTING DIRECTIVE WILL REQUIRE AGENCIES TO ESTABLISH APPROPRIATE REPRODUCTION CONTROLS,

XI. OVERSIGHT

E.O. 10501, AS AMENDED	E.O. 11652	E.O. 12065	CURRENT DRAFT
<p>MADE NO PROVISIONS FOR OVERSIGHT BY AN INDEPENDENT BODY. EACH AGENCY WAS RESPONSIBLE FOR MONITORING ITS OWN PROGRAM. THE NATIONAL SECURITY COUNCIL (NSC) WAS RESPONSIBLE FOR CONDUCTING A CONTINUING REVIEW OF THE IMPLEMENTATION OF THE ORDER TO ENSURE THAT CLASSIFIED DEFENSE INFORMATION WAS PROPERLY SAFEGUARDED.</p>	<p>ESTABLISHED A SEVEN MEMBER INTERAGENCY CLASSIFICATION REVIEW COMMITTEE (ICRC) TO ASSIST THE NSC IN MONITORING IMPLEMENTATION OF THE ORDER. THE ICRC WAS CHARGED SPECIFICALLY TO OVERSEE AGENCY ACTIONS, TO INCLUDE APPROVAL OF AGENCY IMPLEMENTING DIRECTIVES, AND TO RECEIVE AND TAKE ACTION ON SUGGESTIONS AND COMPLAINTS REGARDING THE PROGRAM FROM PERSONS WITHIN OR OUTSIDE THE GOVERNMENT.</p> <p>HEADS OF AGENCIES WERE CHARGED TO DESIGNATE A SENIOR OFFICIAL RESPONSIBLE FOR EFFECTIVE IMPLEMENTATION AND FOR ENSURING THAT AGENCY PERSONNEL WERE FAMILIAR WITH THE REQUIREMENTS OF THE ORDER.</p>	<p>ESTABLISHES A SEPARATE AND INDEPENDENT BODY, THE INFORMATION SECURITY OVERSIGHT OFFICE (ISOO), TO MONITOR THE PROGRAM. PROVIDES AUTHORITY FOR THE DIRECTOR, ISOO, TO OVERSEE AND ENSURE COMPLIANCE WITH THE ORDER THROUGH ON-SITE REVIEWS OF AGENCY PROGRAMS, AND REVIEW AND APPROVE AGENCY IMPLEMENTING REGULATIONS AND SYSTEMATIC REVIEW GUIDELINES. REQUIRES THE DIRECTOR TO REPORT ANNUALLY TO THE PRESIDENT ON THE STATUS OF IMPLEMENTATION OF THE ORDER. THE DIRECTOR, ISOO, IS GIVEN THE AUTHORITY TO DEVELOP AND PROMULGATE DIRECTIVES FOR IMPLEMENTING THE ORDER THAT ARE BINDING ON AGENCIES. OVERALL POLICY DIRECTION FOR THE PROGRAM IS PROVIDED BY THE NATIONAL SECURITY COUNCIL.</p>	<p>THE CURRENT DRAFT ESSENTIALLY RETAINS ALL AUTHORITY PROVIDED TO THE ISOO BY E.O. 12065. IN ADDITION IT PROVIDES THE DIRECTOR THE AUTHORITY TO PRESCRIBE GOVERNMENT-WIDE STANDARD SECURITY FORMS AND TO APPOINT MEMBERS OF THE ISOO STAFF.</p> <p>THE DRAFT CONTINUES TO PROVIDE THAT THE NSC SHALL PROVIDE OVERALL POLICY DIRECTION FOR THE PROGRAM.</p>

COMMENT: CURRENT DRAFT CONTINUES TO RECOGNIZE THE NEED FOR AN INDEPENDENT OVERSIGHT ORGANIZATION.

E. O. 10501, as amended	E. O. 11652	E. O. 12065	Current draft
<p>PROVIDED FOR NO SPECIFIC SANCTIONS EXCEPT THAT AGENCY HEADS WERE DIRECTED TO TAKE PROMPT AND STRINGENT ACTION AGAINST ANY EMPLOYEE DETERMINED TO HAVE BEEN KNOWINGLY RESPONSIBLE FOR THE UNAUTHORIZED RELEASE OR DISCLOSURE OF CLASSIFIED DEFENSE INFORMATION.</p>	<p>SANCTIONS WERE LIMITED TO CASES OF REPEATED UNNECESSARY CLASSIFICATION OR OVERCLASSIFICATION AND TO UNAUTHORIZED DISCLOSURES OF NATIONAL SECURITY INFORMATION.</p>	<p>SANCTIONS WERE EXPANDED TO COVER KNOWING AND WILLFUL (1) CLASSIFICATION IN VIOLATION OF THE ORDER; (2) UNAUTHORIZED DISCLOSURE; OR (3) VIOLATION OF ANY OTHER PROVISION OF THE ORDER OR IMPLEMENTING DIRECTIVES. A RANGE OF SANCTIONS FROM REPRIMAND TO REMOVAL WAS ESTABLISHED. THE DIRECTOR OF ISOO MUST BE INFORMED OF ALL VIOLATIONS AND CORRECTIVE ACTIONS TAKEN.</p>	<p>THE SANCTION PROVISIONS OF E. O. 12065 ARE CONTINUED IN THE CURRENT DRAFT. THE ONE ADDITION IS PROVISION FOR "NEGLIGENT" UNAUTHORIZED DISCLOSURE OR "NEGLIGENT" VIOLATION OF ANY OTHER PROVISION OF THE ORDER OR IMPLEMENTING DIRECTIVES. THE RANGE OF SANCTIONS PROVIDED BY E. O. 12065 IS CONTINUED, AS WELL AS PROVISIONS FOR THE DIRECTOR, ISOO, TO BE NOTIFIED IN CASES OF UNAUTHORIZED DISCLOSURE OR CLASSIFICATION IN VIOLATION OF THE ORDER.</p>

COMMENTS: CURRENT DRAFT RETAINS AND STRENGTHENS THE SANCTION PROVISIONS OF E. O. 12065, IT RELIEVES THE REQUIREMENT THAT AGENCIES MAKE ON-THE-SPOT REPORTS OF MINOR ADMINISTRATIVE VIOLATIONS TO THE ISOO.